

The complaint

Ms I complains that Barclays Bank UK PLC won't reimburse her the money she transferred to a fraudster.

What happened

Ms I has explained that she received a call from an individual purporting to work for an investment firm. The individual told Ms I that he could see she had made a small investment some years ago of £250 and wondered if she wished to pursue investing further.

Ms I explained that she had invested £250, but had been unable to see or access the investment since and so had assumed it had gone. The individual reassured Ms I that the funds were still active, but would grow better if managed. The individual asked if Ms I would be interested in investing further, which she confirmed she would. Unfortunately, unbeknownst to Ms I at the time, the individual she was in contact with was in fact a fraudster.

In December 2021, on the fraudster's advice, Ms I made two card payments to a cryptocurrency payment processor totalling around £1,000 of her own money. The following week, Ms I told the fraudster she was also looking to invest some of her mother's funds to allow these to grow, as she had Power of Attorney over the accounts. Ms I told the fraudster she had up to around £250,000 of her mother's funds to invest, but that she needed the remainder for the purchase of a house and related costs.

Ms I has explained she insisted on her mother's funds being in an account in her mother's name, but the fraudster persuaded her that, for ease, she should transfer her mother's funds to her own account, and then on to the Cryptocurrency investment, removing any requirement for her mother to have to open a separate account. The fraudster told Ms I to start by transferring £10,000. Again, Ms I has explained she didn't want this and told the fraudster so, but he was insistent that this was the investment plan. Ms I therefore transferred £10,000 from her mother's account to her own and then allowed the fraudster remote access to her computer in order to allow him to transfer these funds to a Cryptocurrency account.

The following day the fraudster told Ms I he wanted to transfer a further £50,000. Again, Ms I objected and said this was too much money, but was convinced to do what the fraudster said. Again Ms I made the payment transfer from her mother's account to her own, and from there the fraudster moved the funds on.

The fraudster told Ms I to make a further payment of £50,000 just two days later. Again Ms I has explained she told the fraudster she didn't want to do this, but has explained that the fraudster had no regard for her desires. Ms I made the transfer again as requested, but this time the payment was blocked by Barclays' fraud detection systems.

Ms I spoke with a Barclays advisor by phone about the payments she was making. Ms I told the advisor she was investing through a known cryptocurrency platform, with a genuine firm.

The advisor explained to Ms I that people can get scammed, even when paying genuine cryptocurrency platforms and asked Ms I for more information about how she was contacted.

Ms I explained to the advisor that she had been cold called by the investment company, and she was reassured that it knew about her previous investment from years before. She also told the advisor that the investment firm had given her advice in setting up her accounts. Barclays asked Ms I if she had given anyone remote access to her computer. Despite this being the case, Ms I told Barclays she hadn't, but did say that the investment firm had requested access and she'd objected.

Barclays told Ms I that based on the awareness of the previous investment, and requesting access to Ms I's computer it had concerns. Within the conversation, the advisor told Ms I *'that sounds like a very common scam to me', 'I think the gentleman you've spoken to is trying to scam you. I don't have one shadow of a doubt that's his intention' and 'I wouldn't have anything to do with the gentleman that's calling you. Honestly, I'm telling you it's a scam.'* On this basis, the advisor told Ms I she would not be releasing the payment request and Ms I would need to go to branch, for her cryptocurrency account to be checked, and advised her to attempt to make a withdrawal of the money already sent. Ms I returned the funds she'd attempted to transfer back to her mother's account following this advice.

Ms I was out of the country for a short while visiting her mother, but has said that during this time, the fraudster kept trying to persuade her to complete the transaction. She said that when she told him that the payment had been blocked by Barclays, the fraudster said negative things about both her and the bank. Ms I visited her bank and had the blocks removed from her account. Unfortunately, the notes recorded in branch aren't detailed and Ms I didn't take her laptop as suggested with her to the branch, but from the notes available it appears Ms I told Barclays that the investment had been recommended by a family member, that there had been no contact from any third party and that she had access to her cryptocurrency wallet. On this basis her account was unblocked. Ms I has said that during her visit to branch, she was in full view of other customers and too scared to tell the staff what was going on. She feels that, had she been taken somewhere more private, she could have opened up about what was really happening.

Following the unblocking of her account, Ms I continued to make payments towards the investment scam. She's explained that from the very first payment of her mother's money, she wanted to stop, but felt under duress to continue – the fraudsters insisting they had a plan that she must comply with. Ms I has explained she would sometimes be in tears on the phone to the fraudsters but they would insist things would be ok and treated her like a friend. Overall, Ms I made around 25 payments to the fraudster, totalling over £900,000, with only around £4,000 being returned through permitted 'withdrawals'.

Ms I appears to have had concerns at numerous points with the actions of the fraudster – for example, at one point she was told her accounts had been managed poorly, and were passed to a more senior manager until a new manager could be allocated. However, Ms I was then passed back to her initial manager. Ms I requested contracts and terms for her investment, which she's said kept being swept aside by the fraudster, until it finally created one specifically for her – however Ms I queried why this would not be in place as standard practice. Ms I's son also helped to check the firm for her and identified the 'firm' the fraudster was apparently trading under was not regulated. The fraudster provided Ms I's son with a company registration number, but again the son identified the company name was different to what the fraudster purported to trade under. The fraudster advised that his firm was an 'umbrella company' of this quoted firm, but was unable to evidence this.

When Ms I's mother's funds had been depleted and the fraudster kept changing their story for how Ms I could see returns, Ms I became suspicious she had fallen victim to a scam and contacted Barclays to make a claim.

Barclays initially closed Ms I's claim, as it requested to speak in person to Ms I's mother which wasn't possible. Barclays also withdrew Ms I's authority to act on her mother's behalf for her accounts. However, it later re-opened her complaint, but didn't consider it was liable to refund her losses. It advised that it contacted the beneficiary banks as soon as it was made aware of the scam, but unfortunately no funds remained. However it did offer £100 compensation for the time it had taken to provide its final response.

Ms I remained unhappy and referred her complaint to our service.

An investigator considered Ms I's complaint but didn't uphold it. He thought that Ms I had been given a clear warning from Barclays that it was confident this was a scam and to not make further payments to the individual, but Ms I had still proceeded to do so. The investigator thought that further intervention in later payments would have been unlikely to have made a difference, as he considered Ms I was convinced to continue making payments.

Ms I disagreed with the investigator's view. She thought the advisor who had warned her by phone appeared very casual and said they felt 'uncomfortable' about the transactions. She also didn't think the branch staff did enough to protect her by questioning her in public view. Ms I says that if Barclays had made one further call it would've made a difference. Ms I has commented that, despite insistence from Barclays that it needed to speak in person with her mother, it has since reinstated Ms I's Power of Attorney without speaking with her mother.

As Ms I disagreed with the investigator, the complaint has been referred to me for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm very aware I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I want to start by saying how very sorry I am to hear of the impact this scam has had on Ms I and her family. I want to assure Ms I that I don't underestimate the immense strain this must have placed on them all. However, my role is purely to look at the actions of Barclays and whether it ought to have done more to protect Ms I in the circumstances. Having done so, while I'm sorry to disappoint Ms I, I'm not upholding her complaint. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services

Regulations and the terms and conditions of the customer's account. However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

The Contingent Reimbursement Model (CRM) Code can provide additional protection for the victims of APP scams such as this was. However, payments made to the fraudulent account as Cryptocurrency are not within the scope of the CRM Code. So I cannot fairly apply the terms of the CRM code to any of the payments Ms I has made.

However, taking into account regulator's rules and guidance and what I consider to have been good industry practice at the time, I consider Barclays should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers) and the different risks these can present to consumers, when deciding whether to intervene.

Should Barclays have fairly and reasonably made further enquiries before processing Ms I's faster payments?

It isn't in dispute that Ms I has fallen victim to a cruel scam here, nor that she authorised the disputed payments she made from her account, but I've thought about whether Barclays should have reasonably intervened any further than it did.

I've considered the fact that Barclays *did* intervene on the fifth overall payment Ms I made and that, based on what Ms I told them, advised her that this was a scam and to not make further payments. Ms I has argued that the advisor appeared casual when discussing the payments. While I would describe the advisor as calm, I think she was also very clear and stark in advising that she was certain this was a scam and for Ms I to not proceed with further payments. She also explained several hallmarks of the scam that Ms I was falling victim to that were common in scams such as this. I don't think Ms I would reasonably have left this conversation with any ambiguity over Barclays' message.

Unfortunately, contemporaneous evidence from Ms I's branch visit is more limited. Ms I has expressed feeling uncomfortable speaking in front of onlookers which I can appreciate, given the delicate nature of the situation. However, it also appears from Barclays records that it did attempt to question Ms I to establish a scam risk and that Ms I misled branch staff on the nature of the payments she was making. I think Ms I misleading branch staff is indicative that her intentions at this time were to continue with payments, despite quite definitive previous

warnings that this was a scam (and also despite Ms I having acknowledged that the fraudster had spoken negatively about her in the interim). I therefore think that even if Barclays had done more when she visited her branch, given she'd already previously been told this was a scam, she would have continued with payments.

Ms I has stated that had Barclays called her one more time, she doesn't think she would have continued to make payments. However I don't think there's anything further Barclays could have reasonably said on this matter. While it had high suspicions that Ms I was falling victim to a scam, without further evidence of this I don't think it was unreasonable to have not blocked Ms I's payments – and I think it had already made its concerns clear. Ms I has said from the very first payment she made of her mother's funds she wanted to stop, yet continued to do so despite Barclays providing this clear warning on the third transfer of her mother's funds, as well as Ms I raising further concerns she identified about the fraudster after this point. I therefore think, on the balance of probabilities, even if Barclays had made a further intervention attempt, Ms I would've continued with the payments she was making.

Recovery of funds

Lastly, I've considered whether Barclays did all it could to recover Ms I's funds once it was made aware of the scam. Barclays made contact with the relevant Cryptocurrency account providers but unfortunately no funds remained. Ms I did receive a message that appears to be from Barclays suggesting funds were available, although Barclays has no record of sending this text. It's unclear if this message was sent by the fraudsters (as it has been known for fraudsters to spoof messages into genuine text message chains) or if this was an error on Barclays' side. It seems to me more probable, based on Barclays' lack of records that it may be a spoofed message. In any event, Barclays has evidenced records from the Cryptocurrency providers that it was confirmed from the outset that no funds remained.

Compensation for distress and inconvenience

Barclays acknowledged in its final response letter that its response had been unduly delayed and offered Ms I £100 as an apology. I appreciate this has been an extremely difficult time for Ms I, made worse by the uncertainty over her limited access to her mother's account. However I also appreciate that Barclays also has a duty of care to Ms I's mother as a customer. All things considered, I think Barclays acted fairly in taking additional steps to review the available evidence, prior to allowing further account access and that overall, the £100 it's offered as an apology for its delays is fair.

To conclude, for the reasons I've set out above, while I'm very sorry to disappoint Ms I, I don't think Barclays could reasonably have done more to protect her from the scam she fell victim to. It therefore follows that I am not recommending Barclays reimburses her losses.

My final decision

My final decision is that I don't uphold Ms I's complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms I to accept or reject my decision before 26 June 2024.

Kirsty Upton
Ombudsman